

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

14

INFORMATION

TOPIC

**Notice of Intended Action – Water Use & Allocation Permit Fees, Chapter
50: Scope of Division—Definitions—Forms—
Rules of Practice**

The Commission is asked to review the draft Notice of Intended Action to initiate rulemaking to amend Chapter 50: Scope of Division – Definitions – Forms – Rules of Practice of the Iowa Administrative Code. The changes being proposed would revise the fee schedule for water use permits.

Water use permits are required of any person or entity using 25,000 gallons of water in a single day during the year, and are issued for a period of up to 10 years. Currently, the fee to apply for a water use permit or to modify a water use permit is \$25. These fees generate about \$10,000 a year to the state's General Fund. Currently, the department uses \$287,000 of its General Fund appropriation to fund the issuance of the water use permits and related costs.

The fees for the water allocation and use program have not increased for over 37 years. They do not cover the cost of the program as envisioned in the late 1960's, nor do they cover the funding for the additional requirements placed on the department for this program during the ensuing years, which include the priority water allocation implementation during droughts, implementation of water conservation practices, and well interference compensation resolution. Many permit decisions must be made with inadequate available hydrogeological data. Well-interference cases often require that the department meet with appropriate individuals to assess hydrogeologic, engineering, and environmental impacts of contested water allocation cases. Historically, there has been insufficient funding to meet these needs. The annual fee is not to exceed \$160.00 per permit and each permit holder shall pay the same annual fee. The total amount collected from annual water use fees per year shall not exceed \$500,000. A more detailed explanation of the current and future program efforts can be obtained from the department's website at <http://www.iowadnr.com/water/quantity.html>.

Stakeholders participating in the development of the *Iowa Water Resource Management Strategy* have also been involved in the development of this rulemaking. One public hearing is scheduled to obtain additional public comment.

Charles C. Corell
Chief, Water Quality Bureau
Environmental Services Division

February 19, 2008

ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.260 through 455B.274, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Iowa Administrative Code 567-Chapter 50, "Scope of Division—Definitions—Forms—Rules of Practice."

The purpose of this rulemaking is to replace the existing fee schedule for the water use permit program with the proposed new revised fee schedule. Iowa Code 455B.105(11) allows the Environmental Protection Commission to adopt by rule a schedule of fees for permit applications as well as a schedule of fees which will be assessed for the management of Iowa's water use permitting program. In determining the fee schedules, the commission shall consider the cost of administration of permits, review of applications and compliance with the terms of the permits, and the relative benefits to the applicant and to the public of permit review, issuance, and monitoring compliance.

By statute, water use permits are issued for up to 10 years. Currently, the fee to apply for a water use permit or to modify a water use permit is \$25. These fees generate about \$10,000 a year to the state's General Fund. Appropriations from the General Fund have been used to fund the issuance of the water use permits and related costs at approximately \$287,000 per year.

The fees for the water allocation and use program have not increased for over 37 years. These fees do not cover the cost of the program as envisioned in the late 1960's, nor do they cover the funding for the additional requirements placed on the department for this program during the ensuing years such as: priority water allocation implementation during droughts, implementation of water conservation practices, and well interference compensation resolution. Many permit decisions must be made with inadequate available hydrogeological data. Well-interference cases often require that the department meet with appropriate individuals to assess hydrogeologic, engineering, and environmental impacts of contested water allocation cases. Historically, there has been insufficient funding to meet these needs. The proposed fee schedule is estimated to raise up to \$500,000 dollars each year for the permitting program. A more detailed explanation of the current and future program efforts can be obtained from the department's website at <http://www.iowadnr.com/water/quantity.html>.

The department has proposed legislation to establish a dedicated fund for these fees. Should that fund not be established, the fees collected by the department under this subsection shall be remitted to the State Treasurer and credited to the General Fund.

Any interested person may make written suggestions or comments pertaining to the proposed rule revisions by _____. Such written materials should be directed to Diane Moles, Water Supply Engineering Section, Iowa Department of Natural Resources, 401 SW 7th Street, Suite M, Des Moines, IA 50309-4611; fax 515/725-0348 or diane.moles@dnr.iowa.gov. Persons wishing to convey their views orally should contact her at 515/725-0281.

A public hearing will be held on _____ at 10:00 a.m. in the conference rooms at DNR's Water Supply offices located at 401 SW 7th Street, Suite M; Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule.

Any persons who intend to attend the public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise of special needs.

This amendment is intended to implement Iowa Code section 455B.105 and 455B.260 through 455B.274.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code §17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rulemaking.

The following amendments are proposed.

Item 1. Rescind 567-subrule 50.4(2).

Item 2. Adopt the following new 567-subrule 50.4(2):

50.4(2) *Fees.*

a. Application Fee. An application to the department for a new permit, modification of an existing permit, or registration of a minor non-recurring water must be accompanied with the fee listed in the table below. These fees are nonrefundable and are not transferable. For any single application, if more than one fee in the table below applies, only the higher fee is required. The fees become effective on October 1, 2008.

Application Description	Form	Fees, in \$
(1) To apply for a new permit to withdraw or divert water (including diversion of water to an aquifer)	16 (542-3106)	350
(2) To renew an existing permit	542-1470	0
(3) To modify an existing permit to either add a new source or increase the amount or rate of water withdrawn or diverted	16 (542-3106)	350
(4) To modify the conditions of an existing permit which are not described in (3)	16 (542-3106)	0
(5) To apply for a permit to store water	18 (542-3109)	75
(6) To register a minor nonrecurring use of water	20 (542-3112)	75

b. Annual Water Use Permit Fee. There is an annual water use permit fee in addition to the application fee. The annual fee is not to exceed \$160.00 per permit and each permit holder shall pay the same annual fee. The fee will not be prorated and is nonrefundable. The total amount collected from annual water use fees per year shall not exceed \$500,000. The water allocation fee is due December 1st of each year, beginning with December 1, 2008. The department will provide an annual fee notice to each permittee at least 60 days prior to the fee due date. An additional fee of \$100 will be imposed if the permit allocation fee is not received by December 1st. Failure to remit the fee by January 1st may result in the cancellation of the permit.

There is no annual fee for a water storage permit or for a minor nonrecurring water use registration.

The annual fee shall be based on the costs for administering the water use permitting program for the previous calendar year and on the budget for the next fiscal year. The department will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the water use permitting program. The department will convene an advisory committee each year to review the proposed budget. The department shall submit the proposed budget for the next fiscal year to the commission for approval no later than the September meeting.